

**OPINION
62-35**

January 30, 1962

CITIES AND VILLAGES - Funds - Disposition

This is in reply to your letter under date of January 26, 1962, in which you request the opinion of this office as to whether the city of Ellendale may donate money to a private corporation for the development of a dam site and whether the city may make a contribution to the local water conservation and flood control district or to the State Water Conservation Commission, if called upon to do so.

With reference to your first question, we direct your attention to section 185 of the State Constitution, as amended, which reads as follows,

“. . . neither the state nor any political subdivision thereof shall . . . make any donation to or in aid of any individual, association or corporation except for reasonable support of the poor”

And even in the absence of the prohibition in section 185 of the State Constitution, the city could not legally donate any sum to a private corporation unless empowered by statute to do so, or unless such authority could be reasonably implied to render effective authority specifically conferred by statute. (See *Stern v. City of Fargo*, 18 ND 289, 122 NW 403; *Dregor v. Brekke*, 75 ND 468, 28 NW 2d 598.)

It follows, therefore, that the city of Ellendale may not donate money to a private corporation.

In answer to your second question, it is our opinion that the city of Ellendale may participate with the water conservation and flood control district, and with the State Water Conservation Commission, in meeting the cost of constructing a dam that will insure the city a water supply, provided provision has been made in the city's budget for sharing such cost.